

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JANET RAYMOND,

Plaintiff,

vs.

Case No. 04-CV-72725
HON. GEORGE CARAM STEEH

GEORGE RAYMOND,
UNITED STATES OF AMERICA, and
STATE OF MICHIGAN,

Defendants.

_____/

ORDER GRANTING DEFENDANT UNITED STATES' MOTION FOR
LEAVE TO FILE AN AMENDED ANSWER, CROSS-CLAIM, AND COUNTERCLAIM
TO FORECLOSE (# 15)

Defendant United States of America moves for leave to file an amended answer, cross-claim, and counterclaim to foreclose federal tax liens. Pursuant to the remaining parties plaintiff Janet Raymond's, defendant George Raymond's, and defendant United States of America's request, the court entered a November 14, 2005 Order to cancel a scheduled bench trial in favor of adjudicating the remaining legal issues by way of cross-motions for summary judgment, to be filed by Janet Raymond and the United States by December 12, 2005. The parties do not dispute that Janet Raymond and the United States each enjoy a lien interest in the disputed property.

Leave to amend is to be freely granted when justice so requires. See Fed. R. Civ. P. 15(a). Absent bad faith or dilatory motive on the part of the movant, leave to amend should be granted unless it would not survive a motion to dismiss. Foman v. Davis, 371

U.S. 178, 182 (1962). In deciding a motion to dismiss, the court accepts the allegations as true, and may dismiss only if the claimant can prove no set of facts which would entitle the plaintiff to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

Defendant Janet Raymond has not opposed the motion to amend. Defendant Raymond opposes the motion to the extent that he believes defendant United States "will immediately foreclose" if the motion is granted. There has been no showing of bad faith or improper motive by defendant United States in seeking leave to amend, nor a showing that the proposed amended answer, cross-claim, and counter-claim would not survive a motion to dismiss. Fed. R. Civ. P. 15(a); Foman, 371 U.S. at 182; Conley, 355 U.S. at 45-46. Accordingly,

Defendant United States' motion for leave to amend is hereby GRANTED.

SO ORDERED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: November 17, 2005

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on November 17, 2005, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk